

MT LEGISLATIVE HISTORY

Chapter 46 1987

Bill (H) 311 S _____

Original bill & hist. C

H. Committee on Local Government

S. Committee on Local Government

Hearing Date(s) Jan 26 ☒ C

Hearing Date(s) Feb 10 ☒ C

_____ ☐ C

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Date Out Jan 26 ☒ C

Feb 10 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

STATUS SHEET

SENATE LOCAL GOVERNMENT COMMITTEE

50th LEGISLATURE

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 204	Repealing liability for mob damage	Jan 24	Rep. Fritz	Feb. 3	BE CONCURRED IN	Feb. 3
HB 253	Withdrawal of territory from urban transportation district	Feb. 10	Ream	March 19	BE CONCURRED IN	March 19
HB 280	Increasing the time allowed for a city or town to file a financial statement with the Dept. of Commerce	Jan. 30	M. Hanson	Feb. 10	BE CONCURRED IN	Feb. 10
HB 282	Auth. urban transportation dist. to levy 1 mill of prop. tax for the provision of transportation for sr.cit. &handicapped	Feb. 16	Long	March 19	BE CONCURRED IN	March. 19
HB 311	Providing for modification of existing special improvement lighting districts	Jan. 30	Kadas	Feb. 10	BE CONCURRED IN	Feb. 10

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 10, 1987

The tenth meeting of the Local Government Committee was called to order at 1:00 p.m. on February 10, 1987 by Chairman Bruce D. Crippen in Room 405 of the Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 280: Rep. Marian Hanson, Ashland, representing District 100, said the bill increased the time allowed for a city or town to file a financial statement with the Department of Commerce. The time was increased from 60 to 120 days.

PROPOSERS:

Janet Jessup, representing the city of Helena, said that current law doesn't give enough time for the cities to complete a financial statement. The volume of information has increased tremendously and the fact is that most cities do not meet the 60 day deadline, she said.

Chuck Stearns, city of Missoula finance office, representing the City of Missoula, said he would support the 120 day deadline.

OPPOSERS: There were no opposers.

QUESTIONS FROM THE COMMITTEE:

Sen. Beck asked about the number of days specified in the bill. Rep. Hanson said it was originally written to be 180 but the department of commerce wasn't happy with that so a compromise was made and the bill now reads 120 days.

ACTION ON HOUSE BILL 280: Sen. Story moved that HB 280 BE CONCURRED IN. The bill was seconded and CARRIED UNANIMOUSLY. Sen. Harding was assigned to carry the bill in the Senate.

CONSIDERATION OF HOUSE BILL NO. 311: Rep. Mike Kadas of Missoula, representing District 55, sponsored the bill, he said, to modify the existing special improvement lighting districts. Currently, to make a major change in street lighting districts, the entire district has to be dissolved with a 75% petition and an entirely new district formed. This will provide that upon a 10% petition or a resolution of the city, the city council will be notified, notices will be sent to all residents and notices will appear in the paper for five days. It would take a 51% protest to stop the

the changes or a decision of the city council.

PROPOSERS:

Chuck Stearns, city of Missoula, said the public works director helped draft the bill and strongly supports it. It will allow the city a simpler way to convert the old street lights into the newer, more energy-efficient ones.

Janet Jessup, city of Helena, supported the bill.

Alec Hansen, League of Cities and Towns, said it eliminates a difficult step in modifying lighting districts and should save cities money.

OPPOSERS: There were no opposers.

QUESTIONS FROM THE COMMITTEE:

Sen. Crippen asked if the assessments were by taxable value or front footage? Ms. Jessup said it would be area or linear footage. Sen. Crippen also asked Ms. Jessup if the 50% protest meant 50% of the original district. She replied that it would have to be 51% of the square footage of the district. Sen. Crippen further questioned if you were changing the method of assessment and it had been originally set up by the square foot/area district and it was thought to be better on the basis of front-footage would people be able to protest on the basis of front footage? Ms. Jessup said it has to be put before the voters every year as part of the budget process. She pointed out that Helena has 23 lighting districts, each with a different charge according to cost.

Rep. Kadas closed the hearing on HB 311.

CONSIDERATION OF SENATE BILL NO. 259: Sen. Rasmussen of Helena, representing District 22, presented this bill to allow the sale of mailing lists. He said the bill needs some amendments and asked that representatives of the Department of Revenue speak on the bill. He said this could benefit many businesses in Montana.

PROPOSERS:

Rick Graetz, representing Montana Magazine, spoke in favor of the bill. (See Exhibit 1) He said he would suggest amendments excluding DOR lists, mental health patients, taxpayers and those excluded by law. He said the State could publicly announce that lists were being made available thus allowing people to contact the State to have their names removed.

QUESTIONS FROM THE COMMITTEE: There were no questions.

EXECUTIVE SESSION:

COMMITTEE ACTION ON SENATE BILL NO. 282: Sen. Hammond moved that SB 282 DO PASS. The motion was seconded and CARRIED UNANIMOUSLY.

COMMITTEE ACTION ON HOUSE BILL NO. 311: Sen. Eck moved that HB 311 BE CONCURRED IN. The motion was seconded and CARRIED UNANIMOUSLY. Sen. Walker was assigned to carry HB 311 on the floor of the Senate.

FURTHER DISCUSSION OF SENATE BILL NO. 211: An amended Gray Bill of SB 211 was distributed to the committee by Karen Renne. (See in Feb. 17 minutes)

Sen. Story said that sewers and septic tank inspections are the responsibility of local inspectors and must comply with fire codes, but the State is still sending inspectors all over the state for building codes. Fifty-eight local governments have been contracted to do the inspecting by the State, however, the small communities don't do their own inspections. He felt these codes were adopted because the contractors wanted uniform codes. He said the bill is not approved by the State because they want to keep on inspecting but he feels the State should set the standards and the local inspectors enforce them. The arguments against the bill were it would cost the community too much money, it would impose liability on the communities and possibly, the inspections wouldn't be strictly enforced. He mentioned the Deer Lodge Condominiums at Big Sky that are poorly built and said this occurred under the present system of state inspectors. Sen. Story then MOVED ADOPTION OF HIS AMENDMENTS, but no action was taken on the motion.

Sen. Hammond noted that his wording in a 1981 bill had been removed. Sen. Pinsoneault asked if we are talking about the electrical and plumbing inspection only and Sen. Story said it also included the building. Sen. Pinsoneault asked if there would be recordkeeping to which Sen. Story answered there would be. He then asked if the records would be kept by the local inspectors and Ms. Renne said that was open.

After further discussion, it was decided to take action at a future meeting.

The meeting was adjourned at 2:15 p.m.



SEN. BRUCE CRIPPEN, CHAIRMAN

SENATE LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 10, 1987

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN	X		
R. J. PINSONEAULT	X		
TOM BECK	X		
DOROTHY ECK	X		
H. "SWEDE" HAMMOND	X		
ETHEL HARDING	X		
LES HIRSCH	X		
PETER STORY	X		
ELEANOR VAUGHN	X		
MIKE WALKER	X		

Each day attach to minutes.

COMMITTEE ON

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

February 10, 1967

MR. PRESIDENT

We, your committee on Local Government

having had under consideration House Bill No. 311

Third reading copy (blue color)

Kadas (Walker)

AUTHORIZING MODIFICATION OF STREET LIGHTING DISTRICTS

Respectfully report as follows: That House Bill No. 311

BE CONCURRED IN

~~66-488~~

~~66-61-488~~

SENATOR BRUCE D. CRIPPEN Chairman.

STATUS SHEET

50th LEGISLATIVE SESSION

LOCAL GOVERNMENT

COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
11	1/20/87	1/26/87				1/26/87					
12	1/20/87	1/23/87		1/26/87							
20	1/20/87	2/2/87		2/2/87							
35	1/21/87	1/28/87		1/30/87							
38	1/21/87	1/28/87				2/11/87					
50	1/21/87	1/30/87			2/11/87						
80	1/21/87	1/28/87	tabled 2/18/87		2/11/87						
13	1/22/87	2/6/87	tabled 2/6/87								
15	1/22/87	2/6/87	tabled 2/13/87								
22	1/23/87	1/30/87			1/30/87						
50	1/26/87	2/4/87				2/13/87					
12	1/26/87	1/30/87		1/30/87							
12	1/27/87	2/2/87				2/18/87					
11	1/29/87	2/4/87	tabled 2/6/87		2/13/87	2/9/87					

a separate sheet for Senate Bills, House Bills, and Resolutions.

Local Government
January 26, 1987
Page 4

Rep. Sales asked if it was required that any part of the document be published?

Ms. Kuehn responded the auditor's comments are published but the annual report is not published for any municipality.

Rep. Sales asked why the report was changed from 46 to 92 pages?

Ms. Kuehn thought the main reason was that cities had the larger report and they changed the towns report so they would have the same. It makes it easier to compare when the reports come into the Department of Commerce.

In closing, Rep. Hansen stated if the cities and towns were not getting the report in on time as was indicated and they felt they could work with the 120-day limit then the bill would allow them the flexibility to meet the deadline.

CONSIDERATION OF HOUSE BILL 311: Rep. Mike Kadas, Missoula, stated HB 311 is a bill to modify the mechanism for amending a street lighting district. He explained his neighborhood has one street lighting district that was set up 15 years ago. When the district was set up the price of electricity was fairly cheap and there was a lot of enthusiasm for the lights. Last year Coal Strip 3 increases and some other things combined, increased rates about 70 to 80 percent. With this increase, the people want to do with less lights. The district is set up with two lights at each intersection and four to five lights in every block. The people want to take out one of the intersection lights. They went to the city council and found in order to make this major modification, the district would have to be dissolved and a new district formed with the appropriate level of lighting. HB 311 uses the same mechanism used to form a district as to modify the district.

The power company asked Rep. Kadas to introduce an amendment (Exhibit 3). On page 3, line 18 following "lights", insert upgrading lights and lighting related facilities in the interest of energy conservation". Rep. Kadas stated the power company wanted to make sure that their existing authority would remain here. The power company is in the process of upgrading all street lights with sodium vapor, a more efficient lighting. He stated he had no problem with the amendment.

PROPONENTS: Joe Aldegarie, City of Missoula, stated the requirement for dissolving a district takes a petition by

75 percent of the property owners. That would take 1100 property owners inside this district. The bill proposes that if there is a significant interest of 10 percent within an area then the city council could start a process for changes. The city council of Missoula is on record as supporting the bill. It will allow people within a lighting district to determine the lighting type they want, the number of lights and whether or not they will have the ability to pay for it.

Alec Hansen, Montana League of Cities and Towns, stated he supported the bill.

OPPONENTS: None.

DISCUSSION (OR QUESTIONS) ON HOUSE BILL 311: Rep. Pistoria was concerned with the removal of the lights from the intersections that it would ruin the lighting there.

Mr. Aldegarie stated the people are looking for an acceptable level of lighting which would still allow them to reduce their costs.

Rep. Hoffman voiced concern with giving this much power to a council. He said in reading the modifications listed in the bill that these could amount to more expense than the actual original lighting district cost.

Mr. Aldegarie responded this was correct. He said what would happen in the procedures of Special Improvement Districts (SID's) would be once the petition was received by the council, a plan would be put together as to what it would cost. A mail notice to every property owner in the district would be done and then there would be a public hearing. If there was a public protest of 50 percent or greater that would kill the change to the SID.

Rep. Hoffman understood the hearing and notification but stated his experience with public hearings was that the governing body was not obligated to do what the people attending the hearings would want.

Mr. Aldegarie stated with the SID law, if there is a written protest of 50 percent or greater they are bound by that protest. They cannot overrule in the case of a 50 percent protest. There is that provision in the law.

Rep. Ramirez was also concerned and asked what would prevent someone having a very acceptable lighting district from changing it into something that could be quite expensive and not needing nearly as many people to make the change as the 75 percent that was needed to start it in the first place? If it takes 75 percent to start and public policy is that it should be that difficult to start, why should the policy be so much less to make a modification?

Mr. Aldegarie stated it does not take 75 percent to start a district. It takes 75 percent to stop a district after it has been formed. He added the bill was before the committee because the residents wanted the ability to make a change in the lighting district.

Rep. Ramirez asked if they wanted to change why was it so difficult to change by abandoning the old and starting a new district?

Mr. Aldegarie responded to abandon the old, it takes a petition of 75 percent of all property owners in the district. He said this is a monumental task. To go door to door and ask people to sign a petition to do away with the street lighting will never happen and so what they are looking for is a smaller percentage to start the process for changes and then go through the 50 percent protest.

Rep. Grinde asked once a lighting district is applied for, who determines how many street lights on each block and at each intersection?

Mr. Aldegarie stated those are determined in the initial creation of the district. A proposed plan is worked out through Montana Power and the council after being requested by the people. This would go back to the people and go through the notification and hearings process and if 50 percent protested it would not be created.

Rep. Brandewie stated for clarification in the discussion that without a change in the state law, persons cannot as an example, just propose a plan to turn off every other light in a district to cut their charges in half.

Mr. Aldegarie stated this was correct. The original resolution for creating the local district specifies the number of lights and Reps. Grinde and Brandewie were speaking of changing the number of lights in the district.

Rep. Pistoria asked if there was anyone from the utilities present to clarify things.

Bob Quinn, Montana Power, responded to Rep. Pistoria that it was his amendment that was offered and it was consistent with what they are doing now under the energy conservation program. The old fixtures are being taken out and are being replaced by new high pressure sodium vapor. The purpose of the amendment is to prevent Montana Power from having to go through the creation of a lighting district to change old fixtures with new.

Rep. Kadas in closing, stated he had the same concern expressed by Rep. Ramirez. He was unsatisfied with the protest provisions. However, it would be exactly the same to modify as it would be to set up a new district and felt the bill did give the people a reasonable option.

DISPOSITION OF HOUSE BILL 280: Rep. Sales moved to DO PASS HB 280 and he moved to pass the AMENDMENT to replace 180 days with 120 days.

The question was called and the motion carried unanimously.

Rep. Darko moved to DO PASS HB 280 AS AMENDED. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 311: Rep. Sales moved to AMEND HB 311 with the amendment proposed by Mr. Quinn (Exhibit 3). Rep. Pistoria seconded the motion. The motion to amend carried unanimously.

Rep. Hansen moved to DO PASS HB 311 AS AMENDED.

Rep. Hoffman stated his concern was hearings giving boards power to do things only on having a public hearing. He felt the boards were getting a lot of power to establish law. He said county governments, on budgets, hold hearings and then go ahead and do what ever they want. This law would be fine for handling the situation presented but he stated on only being required to hold a public hearing, a town council could decide to make changes or improvements which would cost more than the original lighting district. He did not feel the hearings were effective.

Rep. Sales commented that possibly Lee Heiman could read the notice sections to Rep. Hoffman to help set his mind

at ease. Rep. Sales said usually if the council comes up with an idea that people feel they cannot afford, they can get a signed petition fairly fast. He felt the notice requirements in the bill very adequate.

Mr. Heiman read the notice provisions in Section 7-12-4303.

The question was called on Rep. Hansen's motion to DO PASS HB 311 AS AMENDED. It carried unanimously.

DISPOSITION OF HOUSE BILL 312: Rep. Sales moved to DO PASS HB 312. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 277: Rep. Brandewie moved to DO PASS HB 277.

Rep. Bulger moved to amend HB 277 on page 3, subsection 4, to read: "If the county in which the violation or violations occurred has not initiated a drinking and driving prevention program as provided then the Department shall allocate the fee to that county for support of its district court system."

He felt there was a defect in the law and did not think it fair that a county not having the DUI program should lose the money collected by the \$50 fee to another county. Secondly, if that was the case, then it would be to the interest of each county to set up a program and just never meet purely to collect the money, rather than have it go to another county. He said each county should be able to maintain its own money for this purpose.

Rep. Gilbert questioned this amendment changing the intent of the bill. He offered another amendment which would state if the county did not have the program in place it would not be required to collect the fee. He felt this would keep it within the intent of the bill.

Rep. Bulger stated he could not defer to Rep. Gilbert because the county does not collect the money, the state collects it and then returns it to the particular counties.

Rep. Brown asked Mr. Heiman how far they could go within the scope of the title?

Mr. Heiman responded it is within the scope of the title because those counties where there are programs are being funded.

STANDING COMMITTEE REPORT

January 26,

19 87

Mr. Speaker: We, the committee on LOCAL GOVERNMENT

report HE 311

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Chairman

Rep. Norm Wallin

1. Page 3, line 13.

Following: "lights,"

Insert: "upgrading lights and lighting related
facilities in the interest of energy
conservation,"

FIRST

WHITE

reading copy ()
color

Wallin

CLERICAL

Date: 1/26

House Bill 311

Time: _____

In accordance with Joint Rule 3-7(b) the following clerical errors may be corrected:

House Local Government

1. Insert: "... and lighting¹ related facilities..."

David Wallin
Sponsor

1-27-87

Secretary of Senate
or
Chief Clerk

15:00
[Signature]

csj
Legislative Council

DAILY ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1/26/87

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN	✓		
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓		
REP. BUDD GOULD	✓		
REP. REP. TIMOTHY WHALEN	✓		
REP. PAULA DARKO	✓		
REP. TOM BULGER	✓		
REP. JAN BROWN	✓		
REP. BOB GILBERT	✓		
REP. LARRY GRINDE	✓		
REP. WALTER SALES	✓		
REP. STELLA JEAN HANSEN	✓		
REP. PAUL PISTORIA	✓		
REP. ROBERT HOFFMAN	✓		
REP. LES KITSELMAN	✓		
REP. JACK RAMIREZ	✓		
REP. DAVE BROWN	✓		
REP. CAROLYN SQUIRES.	✓		

EXHIBIT 3
DATE 1-26-87
HB 311

1/26/87

Passed

HB 311 - Introduced Bill

1. Page 3, line 18.

Following: "lights,"

Insert: ~~4~~ "upgrading lights and lighting related
facilities in the interest of energy
conservation"

*the
underlying is*

WITNESS STATEMENT

NAME JOE ALDEBARIE BILL NO. 311
ADDRESS 201 W. SPRUCE, MISSOULA DATE 1/26/87
WHOM DO YOU REPRESENT? CITY OF MISSOULA
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

PROVIDES PROCEDURE FOR CITIZENS TO DETERMINE
WHAT LEVEL OF LIGHTING FITS THEIR NEEDS.

VISITORS' REGISTER

LOCAL GOVERNMENT

COMMITTEE

BILL NO. HB 311

DATE January 26, 1987

SPONSOR

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
JOE ALDEGARE	CITY OF MISSOURI	✓	
WILLIE KIRCHW	Town of Kalahau	✓	
Don Hockmon	city of Laurel	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.